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No. 00-1089

IN THE

Supreme Court of the United States

TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.,

Petitioner,

v.

ELLA WILLIAMS,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

REPLY BRIEF FOR PETITIONER

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REPLY BRIEF FOR PETITIONER[1]

1. Respondent is wrong to suggest that the sharp conflict between the decision below and those of other circuits is not a conflict at all, but the result of a "misstatement" of the Sixth Circuit's holding—a "misstatement" apparently made not only by us but by Judge Boggs in dissent as well. *See* Brief in Opposition ("Opp.") 7-14. According to respondent, there is no circuit split because the Sixth Circuit, like other courts of appeals, expressly acknowledged that an ADA plaintiff must be "substantially limited" to be disabled under the Act. That, however, is entirely beside the point. Where the court departed from its sister circuits was not in failing to recite accurately the statutory phrase "substantially limited,"

[1] Petitioner's Rule 29.6 Statement appears at Pet. ii.

but in adopting a legal principle that a plaintiff *is, in fact*, substantially limited if she cannot perform the manual tasks associated with a specific job. It is on this important and recurring question that the Sixth Circuit's decision precipitates an intolerable conflict that this Court should resolve.

Although respondent protests that it "misstates the holding of the Sixth Circuit" to say that the court "found ADA disability based solely upon an impairment from performing only a limited number of tasks associated with a specific job," Opp. 12, the court's decision could not be clearer on this point. The Sixth Circuit reasoned that respondent is "disabled as to performing manual tasks because she suffers from a severe impairment to her limbs, shoulders and neck that seriously reduces her ability to perform the manual tasks *that are job-related*." Pet. App. 5a (emphasis added). Elsewhere, the court made a "determination that [respondent's] impairment substantially limits her ability to perform the range of manual tasks associated with *an assembly line job*." Pet. App. 4a (emphasis added).

It is therefore hardly a "misstatement" that the holding of the Sixth Circuit is that an ADA plaintiff is "substantially limited" in the major life activity of performing manual tasks if she is simply precluded from accomplishing the tasks associated with a specific job. That is, in fact, how Judge Boggs in his dissent characterized the divided panel's decision, *see* Pet. App. 9a-11a, and the majority never suggested that Judge Boggs was "misstating" its holding.[2] Lest there be

[2] Respondent suggests that, by referring to an impairment "affecting" work, the Sixth Circuit was not establishing a standard for measuring whether a plaintiff is "substantially limited," but was simply clarifying that "there must be a connection between the substantially limited major life activity and working." Opp. 13. Nothing in the majority's opinion supports such a gloss; it therefore comes as no surprise that respondent cites no portion of the decision to support her novel interpretation. Moreover, such a reading makes no sense because it goes without saying that an individual with a bona fide disability has no right to an accommodation unless that disability actually hinders her ability to do her job.

any doubt about what the Sixth Circuit held, respondent concedes—even as she tries to explain what she believes was the court's actual holding—that "the Sixth Circuit found a substantial limitation of the major life activity of performing manual tasks *which was evidenced by* Ms. Williams' inability to perform the physical functions required by *her particular job*." Opp. 12 (emphasis added).

2. Respondent misses the point in arguing that the decisions from the other circuits "deal with individualized disability determinations which cannot be mechanically applied to individuals other than those involved in the particular cases." Opp. 15. Whether an ADA plaintiff is "substantially limited" by a particular impairment must be resolved on a case-by-case basis, to be sure, but the *legal principles* guiding those determinations remain constant from case to case. It is there—in delineating how a court is to measure whether a plaintiff is "substantially limited" by a given impairment—that the Sixth Circuit's decision squarely conflicts with decisions from the other courts of appeals.[3]

[3] Despite respondent's suggestions to the contrary, *see* Opp. 14, 19, we do not contend that carpal tunnel syndrome ("CTS"), as a matter of law, can never constitute a disability under the ADA. It is not difficult to imagine a case of CTS so severe that it precludes an individual from performing a broad range of manual tasks—such as brushing one's teeth, driving, and so forth—that the "average person in the general population can perform." 29 C.F.R. § 1630.2(j)(1)(i). Where the Sixth Circuit erred was in finding that an individual with CTS—or any impairment for that matter—is disabled under the Act so long as she can demonstrate that the impairment "affects" her ability to perform the manual tasks associated with her job, regardless of whether she can perform a host of other manual tasks.

Not surprisingly, while respondent goes to great lengths to distinguish her case from the facts of *Chanda* v. *Engelhard/ICC*, 234 F.3d 1219 (11th Cir. 2000), she makes absolutely no effort to reconcile the legal principle that the Eleventh Circuit articulated there with that advanced by the court below. As we describe in the petition, *see* Pet. 13-15, the *Chanda* court held that a "plaintiff must demonstrate that he is substantially limited in a *range* of manual tasks rather than a *narrow category* thereof." *Chanda*, 234 F.3d at 1223 (emphasis added). By contrast, the Sixth Circuit thought it irrelevant that respondent remained capable of performing a broad range of manual tasks both at home and at work. The reason: the ability to perform a number of manual tasks in a variety of different contexts "does not [a]ffect a determination that [respondent's] impairment substantially limits her ability to perform the range of manual tasks associated with *an assembly line job*." Pet. App. 4a (emphasis added).

Save for calling them "no evidence" cases, Opp. 16, respondent similarly overlooks without analysis the conflicting legal rules set forth in *Snow* v. *Ridgeview Medical Center*, 128 F.3d 1201, 1206-07 (8th Cir. 1997), and *Hilburn* v. *Murata Electronics North America, Inc.*, 181 F.3d 1220, 1226-28 (11th Cir. 1999). As we explain in the petition, *see* Pet. 10-13, while the court below held that an ADA plaintiff is substantially limited in a major life activity so long as her "impairments affect manual tasks associated with working," Pet. App. 6a, the *Snow* and *Hilburn* courts squarely adopt a contrary view. *See Snow*, 128 F.3d at 1207 ("It is not enough that an impairment affect a major life activity."); *Hilburn*, 181 F.3d at 1228 (impairment precluding plaintiff from performing job requiring lifting not a disability when she remained capable of performing a range of other manual tasks). These significant conflicts alone justify granting the petition. *See* S. Ct. Rule 10(a).

3. Respondent emphasizes that the major life activity of performing manual tasks is analytically distinct from the

major life activity of working and that the two should not be confused. *See* Opp. 16-17. Our point exactly. What respondent misunderstands is that it was the Sixth Circuit that failed to draw that distinction. As Judge Boggs noted in dissent, the rule that the divided panel adopted "conflates (and erodes) the standards for demonstrating a substantial limitation on 'working' and on 'performing manual tasks.' " Pet. App. 11a. Respondent herself concedes that "an inability to perform in a single, particular job does not constitute a substantial limitation in the major life activity of working." Opp. 16. And, as Judge Boggs underscored, the established rule in the other courts of appeals is that a plaintiff cannot show a "substantial limitation in performing manual tasks * * * [if] her limitation is mostly confined to a subset of job-specific tasks." Pet. App. 11a. What the decision below does, in finding coverage under the ADA when a plaintiff demonstrates no more than that "her manual disability involves a 'class' of manual activities *affecting* the ability to perform tasks at work," *id.* at 4a (emphasis added), is to confer the status of disability on impairments that do not qualify under the "working" category—because only a particular job is affected and working in general is not "substantially limited"—and also do not qualify under the "manual tasks" category—because only those tasks associated with a particular job are affected and performing manual tasks in general is not "substantially limited."

By fashioning this hybrid rule and diluting the necessary showing for a "substantial limitation" under both major life activities, the Sixth Circuit's decision legitimates an entire species of disability claims that the federal courts had heretofore universally rejected: those based on an inability to perform a single job. Therefore, as we explain in the petition, *see* Pet. 15-18, even though the Sixth Circuit's analysis focused on whether respondent was substantially limited in the major life activity of performing manual tasks, its holding

necessarily conflicts with every circuit that has addressed the major life activity of working as well.

4. Indeed, the conflict over the question presented in this case has only intensified since we filed our petition. On March 2, 2001, a majority of the D.C. Circuit, sitting en banc, reaffirmed that an individual who is precluded from "one type of job, a specialized job, or a particular job of choice," is not disabled under the ADA. *Duncan* v. *Washington Metro. Area Transit Auth.*, ___ F.3d ___, 2001 WL 201976, at *3 (en banc) (quoting *Sutton* v. *United Air Lines, Inc.*, 527 U.S. 471, 491-492 (1999)). Chief Judge Edwards, however, dissented. Adopting a view of the ADA shared by the court below, Chief Judge Edwards thought it enough that the plaintiff simply "was in a job that * * * he could not perform *because of his physical disability*." *Id.* at *9 (Edwards, C.J., dissenting) (emphasis in original). According to the dissent, therefore, where a plaintiff can no longer perform his particular job due to a physical impairment but nonetheless remains capable of performing other less strenuous jobs, the ADA mandates that the employer offer one of those less strenuous jobs to the plaintiff as a reasonable accommodation. *See id.* This recent division within the en banc D.C. Circuit underscores the broader conflict among the courts of appeals and the need for this Court to resolve it.

5. Finally, respondent does not deny that the question presented in this case is one of recurring importance. *See* Opp. 19. She concedes that there is an "increasing number of repetitive stress/trauma injuries in the workplace." *Id.* The statistics cited in the petition, *see* Pet. 22-23, and in the brief of amicus National Association of Manufacturers, *see* Br. of Amicus 15-17, confirm the proliferation of such injuries—and the lawsuits against industry that they have precipitated. Due to the conflicting decisions on the question presented in this case, employers in Kentucky, Tennessee, Ohio, and Michigan will be required to spend millions of dollars to accommodate thousands of individuals whose repetitive-

stress injuries preclude them from performing just one particular job, while employers elsewhere in the country will face no such costly mandate. It is precisely this sort of conflict among the circuits that frustrates the uniform application of national rules of law and therefore warrants resolution by this Court.

* * * *

For the foregoing reasons, and those stated in the petition, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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